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Attorneys for Defendant
ConocoPhillips Company

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

HOUTAN PETROLEUM, INC., Plaintiff, vs. CONOCOPHILLIPS COMPANY, A Texas corporation and DOES 1 through 10, Inclusive, Defendants.	**Case No. 07-CV-5627 SC** **DECLARATION OF ADAM FRIEDENBERG IN SUPPORT OF DEFENDANT CONOCOPHILLIPS COMPANY'S RESPONSE TO ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION** **Date: November 16, 2007** **Time: 10:00 a.m.** **Judge: Hon. Samuel Conti**

I, Adam Friedenberg, say:

1. I am an attorney licensed to practice in the State of California, and I am a member of the bar of this Court. I am associated with Glynn & Finley LLP, attorneys for defendant ConocoPhillips Company ("COP"). I know the following facts of my own personal knowledge and if called upon could and would competently testify thereto.

2. Attached hereto as Exhibits A and B are true and correct copies of correspondence I sent to Plaintiff's counsel, Thomas P. Bleau, on October 31 and November 1, repsectively.

3. Last week I spoke with Mr. Bleau on multiple occasions regarding this matter. During one of our conversations on October 30 or 31, Mr. Bleau advised me that Houtan

Petroleum had secured a fuel supply agreement with ARCO, another major petroleum franchisor in the California market.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 9th day of November, 2007, at Walnut Creek, California.

Adam Friedenberg

EXHIBIT A

GLYNN & FINLEY, LLP
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October 31, 2007

ConocoPhillips/Houtan Petroleum

VIA FACSIMILE

Thomas P. Bleau, Esq.
Bleau, Fox & Fong
3575 Cahuenga Boulevard West, Suite 580
Los Angeles, CA 90068-1336

Dear Tom:

As you know, we represent ConocoPhillips Company. I write further to our conversation of yesterday regarding your client, Houtan Petroleum. This letter also responds to your correspondence of yesterday to R. L. Matthews of ConocoPhillips.

You stated in your letter, and again when we spoke yesterday, that your client has acquired possession of the station premises at 101 E. El Camino Real, Mountain View, CA. Obviously, in order to fully evaluate and respond to the issues raised by your letter, we will need to review a copy of the lease or other agreement by which you claim Houtan Petroleum has obtained such rights. Accordingly, I requested that you provide a copy of any such agreement(s). You agreed to obtain and forward copies of such documents, and I again urge you to do so as soon as possible.

You also claimed in your letter that ConocoPhillips "failed to give [your] client proper notice of termination in violation of the PMPA." When we spoke, you repeated this claim, stating that ConocoPhillips failed to give your client 90 days notice of termination. As you undoubtedly know, however, the PMPA does not require 90 days notice "[i]n circumstances in which it would not be reasonable for the franchisor to furnish notification, not less than 90 days prior to the date on which termination . . . takes effect. . . ." 18 U.S.C. § 2804(b)(1). Such was the case here. Indeed, ConocoPhillips did not confirm that it would not be able to renew or otherwise extend its underlying lease with the premises owner until September 2007. It promptly thereafter advised Houtan of this fact, and that it would consequently be necessary to terminate Houtan's franchise agreement. Moreover, ConocoPhillips fully disclosed to Houtan, including prior to and at the time of the most recent renewal of Houtan's franchise, the existence of this underlying lease, and the possibility that its termination might necessitate termination of the franchise agreement. The termination was therefore proper and properly effected.

Your claim that ConocoPhillips failed to make a "bona fide offer" to sell the improvements and equipment at the station premises is also incorrect. In fact, ConocoPhillips timely made such an offer upon your client's request that it do so, and in conformance with the requirements of the PMPA. The offer was based on a competent appraisal, prepared by Valuation Research Corporation, a licensed third-party appraiser. A copy of that appraisal is attached. It establishes a depreciated building value of $73,521.00, and depreciated values of $54,499.00 and $212,002.00, respectively, for the site improvements and gasoline related improvements. Thus, the total appraised value of the building and improvements is $340,022.00, the amount at which ConocoPhillips offered to sell the building, equipment and improvements to your client. If you have an appraisal or some other evidence that you believe indicates an alternative value, please provide it.

You advised in your letter that ConocoPhillips may not remove the improvements and equipment without a court order and "that should ConocoPhillips attempt to remove the improvements and equipment, [your] client will have no choice but to call the police and have anyone attempting to do so physically removed from the premises by the authorities." The improvements and equipment to which you refer are the property of ConocoPhillips. Pursuant to ConocoPhillips' lease agreement with the property owner, ConocoPhillips has the right to enter the premises and remove any such structures, improvements or equipment at any time during, or within 10 days after termination of, the lease. Any lease or other agreement your client has entered with the landowner would necessarily be subject to and limited by ConocoPhillips' right to enter and remove its improvements and equipment. If your client wishes to obtain the improvements and equipment, it may accept ConocoPhillips' bona fide offer. If Houtan declines to do so, however, we expect that it will not interfere with ConocoPhillips' right to remove and retain its improvements and equipment, should ConocoPhillips elect to so remove.

Finally, you asked if ConocoPhillips intends to continue supplying fuel to the station. As the franchise agreement terminates today at noon, ConocoPhillips has no further obligation to deliver fuel to the station. In order to permit your client sufficient time to arrange for a new fuel source, ConocoPhillips, subject to its management's approval, is willing to consider an extension of the current franchise agreement for 90 days (subject to the parties' agreement to waive rent and maintenance and agreement on other material terms). If this is of interest to Houtan, please advise today by noon. If not, then we expect your client to cease using the Union 76 trademarks and trade dress as of noon today, as required by the parties' agreements and applicable law.

Very truly yours,

Adam Friedenberg

Attach.

VRC

Valuation Research Corporation

50 California Street
San Francisco, CA 94111

Summary Exhibits of Leasehold Interest Appraisal

255661 – Mountain View, CA

Exhibits

Exhibit 1	Valuation Summary
Exhibit 2	Valuation Summary 2006 -- Value of Land and Improvements
Exhibit 3	Valuation Summary 2006 -- Value of Improvements Adjusted for Remaining Term of Lease
Exhibit 4	Discounted Cash Flow Analysis -- Land Lease and Permits/Entitlements

Exhibit 2

Valuation Summary - 2007 Value of Land & Improvements
ConocoPhillips Cost Center 255661 - Mountain View, CA

Building Improvements

Base Cost (Sec 64/Pg 1, Class S, Average)		$95.03	
Multipliers:			
Area/Perimeter	0.956		
Height	1.000		
Current Cost	1.030		
Local	1.210		
Total		1.191	
Adjusted Base Cost		$113.18	
Building Area (SF)		1,624	
Subtotal Replacement Cost New (RCN)		$183,804	
Less Physical Deterioration @ 60%		(110,283)	
Subtotal RCN Less Physical Deterioration		73,521	
Add Soft Costs (Permitting and Entitlements)		202,500	
Total RCN Less Physical Deterioration - Building			$276,021

Site Improvements

Description	Units	Unit Cost	Total RCN	Effective Age	Economic Life	% Physical Deterioration	RCNLD	
Grading	24,700 SF	$0.29	7,163	--	--	--	7,163	
Asphalt Paving	12,000 SF	$2.44	29,280	6	10	60%	11,712	
Concrete Paving	8,000 SF	$6.69	53,520	9	16	56%	23,549	
Concrete Curbing	370 LF	$9.00	3,330	11	20	55%	1,499	
Landscaping	--	--	--	--	--	--	5,000	
Miscellaneous (Fencing, etc.)	120 LF	$25.00	3,000	0	25	0%	3,000	
Trash Enclosure	80 SF	$5.65	452	15	25	60%	181	
Lighting	3 Fix	$1,815	5,445	9	16	56%	2,396	
Total Replacement Cost New Less Physical Deterioration - Site Improvements								54,499

Gasoline Related Improvements

Description	Units	Unit Cost	Total RCN	Effective Age	Economic Life	% Physical Deterioration	RCNLD	
Canopy	1,012 SF	$29.44	29,793	9	16	56%	13,109	
Canopy	1,012 SF	$29.44	29,793	9	16	56%	13,109	
Signage	1 Fix	$7,879	7,879			50%	3,940	
Machinery and Equipment:								
UST 12,032 Gal	1	$41,689	41,689			46%	22,512	
UST 12,032 Gal	1	$39,120	39,120			46%	21,125	
UST 550 Gal	1	$11,151	11,151			46%	6,022	
Dispensers	6	$18,255	109,530			42%	63,527	
Control Console	1	$14,002	14,002			42%	8,121	
Piping	--	$4,278	25,668			32%	17,454	
Spill Containment	--	$24,530	24,530			44%	13,737	
Additional Installation	--	$51,341	51,341			57%	22,077	
Lift	3	$6,441	19,323			71%	5,604	
Air Compressor	1	$4,273	4,273			61%	1,666	
Total Replacement Cost New Less Physical Deterioration - Gasoline Related Improvements								212,002

Subtotal Replacement Cost New of Improvements Less Physical Deterioration	$542,522
Less Functional Obsolescence	0
Less External Obsolescence	0
Total Replacement Cost New of Improvements Less Physical Deterioration	$542,522
Add Land Value	1,729,000
Total Estimated Value by the Cost Approach	$2,271,522
Rounded	$2,270,000

Land
Permitting and Entitlements
Leasehold Improvements

EXHIBIT B

GLYNN & FINLEY, LLP
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November 2, 2007

ConocoPhillips/Houtan Petroleum

VIA FACSIMILE & U.S. MAIL

Thomas P. Bleau, Esq.
Bleau, Fox & Fong
3575 Cahuenga Boulevard West, Suite 580
Los Angeles, CA 90068-1336

Dear Tom:

Thank you for your letter of earlier today and for the letter from De Anza Properties which you forwarded. Unfortunately, these letters fall short of what is required for ConocoPhillips to resume fuel deliveries to the station. As I have specifically and consistently advised you for the last several days (see my two letters to you of October 31 and my email to you of November 1 at 1:37 p.m.), ConocoPhillips cannot resume deliveries of highly flammable gasoline until you provide: 1) either a copy of Houtan Petroleum's lease with De Anza Properties or written confirmation from De Anza that your client has the right to possess, occupy and operate as a service station the station premises at least through the 90 day period for which Houtan wishes to extend the franchise agreement; and 2) written assurance from De Anza that ConocoPhillips' time pursuant to the lease to remove any structures, improvements or equipment from the premises shall be tolled, and that ConocoPhillips shall have 10 days to remove any such structures, improvements or equipment, upon ConocoPhillips' receipt of written notice from De Anza. The letter you forwarded earlier today fails to provide these assurances, and thus, at this time, ConocoPhillips cannot resume fuel deliveries. If your client has acquired such rights and De Anza is agreeable to such an extension of ConocoPhillips' right to remove its buildings, improvements and equipment, then it should not be difficult for you to obtain such assurances from De Anza. Please do so as soon as possible.

In the meantime, the franchise agreement between ConocoPhillips and Houtan Petroleum is expired as it has been since it terminated effective October 31, 2007, at 12:00 p.m. Houtan, however, is continuing to use ConocoPhillips' trademarks and trade dress without authorization or permission of ConocoPhillips. Indeed, we understand that your client has refused to allow ConocoPhillips to enter the station

premises to remove its trademarks and trade dress. Such refusal and Houtan's continued use of ConocoPhillips' trademarks and trade dress is in breach of the franchise agreement, and constitutes trademark infringement and unfair competition in violation of the Lanham Act and state law. Houtan's right to use ConocoPhillips' trademarks and trade dress expired upon termination of the franchise agreement, and Houtan therefore must immediately cease using ConocoPhillips' trademarks and trade dress.

We remain hopeful that we will be able to reach agreement on the 90 day extension of the franchise agreement subject to the terms we have proposed. (Such an agreement would, of course, be subject to approval by ConocoPhillips management.) As we have discussed, however, a necessary precondition of any such agreement is that we receive the assurances from DeAnza outlined above. We again urge you to obtain and forward to us such assurances without further delay. In the meantime, the franchise agreement has expired and Houtan must accordingly cease using ConocoPhillips' trademarks and trade dress.

Very truly yours,

Adam Friedenberg